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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

13 **DALE EDWARD ROBINSON**
14 **6541 Lake Ashmere Court**
San Diego, CA 92119

15 **Registered Nurse License No. 725785**

16 Respondent.

Case No. 2013-961

ACCUSATION

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about April 30, 2008, the Board of Registered Nursing issued Registered Nurse
24 License Number 725785 to Dale Edward Robinson (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 November 30, 2013, unless renewed. On April 22, 2013, pursuant to the Stipulated Order for
27 Interim Suspension of License Pursuant to Business and Professions Code Section 494,
28 Respondent's license was suspended.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

7. Section 726 of the Code states:

The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

8. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

1 (1) Incompetence, or gross negligence in carrying out usual certified or
2 licensed nursing functions.

3 REGULATORY PROVISIONS

4 9. California Code of Regulations, title 16, section 1442, states:

5 As used in Section 2761 of the code, 'gross negligence' includes an extreme
6 departure from the standard of care which, under similar circumstances, would
7 have ordinarily been exercised by a competent registered nurse. Such an extreme
8 departure means the repeated failure to provide nursing care as required or failure
9 to provide care or to exercise ordinary precaution in a single situation which the
nurse knew, or should have known, could have jeopardized the client's health or
life.

10 10. California Code of Regulations, title 16, section 1443, states:

11 As used in Section 2761 of the code, 'incompetence' means the lack of
12 possession of or the failure to exercise that degree of learning, skill, care and
13 experience ordinarily possessed and exercised by a competent registered nurse as
described in Section 1443.5.

14 11. California Code of Regulations, title 16, section 1443.5 states:

15 A registered nurse shall be considered to be competent when he/she
16 consistently demonstrates the ability to transfer scientific knowledge from social,
17 biological and physical sciences in applying the nursing process, as follows:

18 (1) Formulates a nursing diagnosis through observation of the client's
19 physical condition and behavior, and through interpretation of information
obtained from the client and others, including the health team.

20 (2) Formulates a care plan, in collaboration with the client, which ensures
21 that direct and indirect nursing care services provide for the client's safety,
22 comfort, hygiene, and protection, and for disease prevention and restorative
measures.

23 (3) Performs skills essential to the kind of nursing action to be taken,
24 explains the health treatment to the client and family and teaches the client and
family how to care for the client's health needs.

25 (4) Delegates tasks to subordinates based on the legal scopes of practice of
26 the subordinates and on the preparation and capability needed in the tasks to be
delegated, and effectively supervises nursing care being given by subordinates.

27 (5) Evaluates the effectiveness of the care plan through observation of the
28 client's physical condition and behavior, signs and symptoms of illness, and

1 reactions to treatment and through communication with the client and health team
2 members, and modifies the plan as needed.

3 (6) Acts as the client's advocate, as circumstances require, by initiating
4 action to improve health care or to change decisions or activities which are against
5 the interests or wishes of the client, and by giving the client the opportunity to
6 make informed decisions about health care before it is provided.

7 **COST RECOVERY**

8 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licensee found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
12 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
13 included in a stipulated settlement.

14 **FACTS**

15 13. In April 2012, Respondent was employed as a registered nurse in the Neuro/
16 Ortho/Telemetry Unit at Palomar Medical Center (Palomar) in Escondido, California. In or
17 around April or May 2012, Respondent reported to a friend, that he had sexually assaulted a
18 patient who had dementia while on duty as a registered nurse. Respondent also admitted that he
19 sexually assaulted a second elderly female patient. Respondent told his friend that he could not
20 control his sexual impulses.

21 14. The sexual assaults were reported to the Escondido Police Department and on May
22 18, 2012, Respondent was interviewed by a police detective. During the interview, Respondent
23 admitted that on or about April 19, 2012, he sexually assaulted an elderly patient, J.S., in Room
24 514, Bed 2 at Palomar. During the interview, Respondent also admitted that he sexually assaulted
25 a second patient on April 18 or 19, 2012, while on duty as a registered nurse.

26 **FIRST CAUSE FOR DISCIPLINE**

27 **(Gross Negligence)**

28 15. Respondent is subject to disciplinary action for unprofessional conduct under section
2761(a)(1) of the Code in that Respondent was grossly negligent when he failed to exercise
ordinary precaution which he knew, or should have known, could have jeopardized his patients'

1 lives or health, when he sexually assaulted two patients, as is set forth in paragraphs 13 through
2 14 above, which are incorporated herein as though set forth in full.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Incompetence)**

5 16. Respondent is subject to disciplinary action for unprofessional conduct under section
6 2761(a)(1) of the Code in that Respondent demonstrated incompetence when he failed to exercise
7 the degree of learning, skill, care and experience ordinarily possessed and exercised by a
8 competent registered nurse, by sexually assaulting two patients while on duty as a registered
9 nurse, as is set forth in paragraphs 13 through 14 above, which are incorporated herein as though
10 set forth in full.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Sexual Misconduct)**

13 17. Respondent is subject to disciplinary action for unprofessional conduct under section
14 726 of the Code in that while on duty as a registered nurse, Respondent sexually assaulted two
15 patients, as is set forth in paragraphs 13 through 14 above, which are incorporated herein as
16 though set forth in full.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct)**

19 18. Respondent is subject to disciplinary action for unprofessional conduct under section
20 2761(a) of the Code in that while on duty as a registered nurse, Respondent engaged in
21 unprofessional conduct when he sexually assaulted two patients, as is set forth in paragraphs 13
22 through 14 above, which are incorporated herein as though set forth in full.

23
24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Board of Registered Nursing issue a decision:

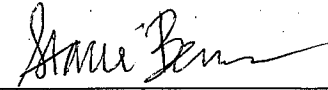
27 1. Revoking or suspending Registered Nurse License Number 725785, issued to Dale
28 Edward Robinson;

1 2. Ordering Dale Edward Robinson to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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8 DATED:

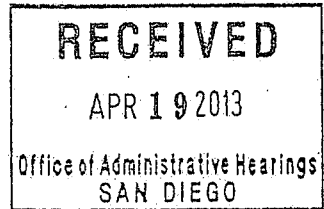
APRIL 24, 2013



for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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8
9 **BEFORE THE**
OFFICE OF ADMINISTRATIVE HEARINGS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Interim Suspension Order
Against:

12 **DALE EDWARD ROBINSON**
13 **6541 Lake Ashmere Court**
14 **San Diego, CA 92119**

15 **Registered Nurse License No. 725785**

16 Respondent.

Case No. 2013-933

**STIPULATED ORDER FOR INTERIM
SUSPENSION OF LICENSE PURSUANT
TO BUSINESS AND PROFESSIONS
CODE SECTION 494**

17 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties in this
18 proceeding that the following matters are true:

19 1. Louise R. Bailey, M.Ed., RN (Complainant and Petitioner) is the Executive Officer of
20 the Board of Registered Nursing. She brought this action solely in her official capacity and is
21 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
22 Nicole R. Trama, Deputy Attorney General.

23 2. Respondent, Dale Edward Robinson (Respondent), is representing himself in this
24 proceeding and has chosen not to exercise his right to be represented by counsel.

25 3. On April 19, 2013, Petitioner filed a Petition for Interim Suspension Order (Petition)
26 against Dale Edward Robinson in Board of Registered Nursing Case Number 2013-993.

27 4. The *ex parte* hearing on the Petition is scheduled for April 24, 2013 at 10:00 a.m. at
28 the Office of Administrative Hearings in San Diego. Respondent hereby waives his right to the

1 *ex parte* hearing scheduled for April 24, 2013 on the Petition pursuant to Business and
2 Professions Code section 494.

3 5. In addition, Respondent understands that he is entitled to a noticed hearing on the
4 Petition within twenty (20) days of the issuance of an interim order without notice (noticed
5 hearing). Respondent hereby waives his right to a noticed hearing on the Petition pursuant to
6 Business and Professions Code section 494(c).

7 6. Respondent agrees that his Registered Nurse License Number 725785 shall be
8 suspended pursuant to Business and Professions Code section 494. Respondent is hereby
9 prohibited from practicing as a registered nurse until a final decision on the Accusation that will
10 be filed in this matter, or until this interim suspension order is modified or vacated.

11 7. Pursuant to Business and Professions Code section 494(f), the Accusation against
12 Respondent shall be filed within 15 days of the issuance of this Order.

13 8. Respondent understands that he is entitled to a hearing on the Accusation within
14 thirty (30) days after he files a Notice of Defense as is set forth in Business and Professions Code
15 section 494. Respondent hereby waives his right to a hearing within the statutory time deadline
16 set forth in Business and Professions Code section 494 which requires that a hearing on the
17 Accusation shall be held within thirty (30) days following the filing of a Notice of Defense.

18 9. The parties understand and agree that facsimile and electronic copies of this
19 Stipulation, including facsimile signatures thereto, shall have the same force and effect as the
20 originals.

21 ACCEPTANCE

22 I have carefully read the above Stipulated Order for Interim Suspension of License. I
23 understand the stipulation and the effect it will have on my Registered Nurse License. I enter into
24 this Stipulated Order for Interim Suspension of License voluntarily, knowingly, and intelligently,
25 and agree to be bound by the Order.

26 DATED: 4/19/2013

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DALE EDWARD ROBINSON, Respondent

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DATED: 4/19/2013

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DATED: 4-22-13

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